IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Criminal Writ Petition No.478 of 2007 (M/B)

Fayyum S/o Sri Asgar Hussain,
R/o Mohalla Gautia, Railway Fatak,
Niuria, District Pilibhit. …….. Petitioner

Versus

1. State of Uttarakhand,
2. Sri Karna Singh Gunjyal,
(Divisional Manager Phones),
Pithoragarh – 262 501. ……. Respondents

Mr. M.S. Pal, Senior Counsel with Mr. V.S. Pal, Advocate for the petitioner.
Mr. G.S. Sandhu, Government Advocate for respondent No. 1.

JUDGMENT

Coram: Hon'ble Rajeev Gupta, C.J.
Hon'ble J.C.S. Rawat, J.

RAJEEV GUPTA, C.J. (Oral)

Mr. M.S. Pal, Senior Counsel with Mr. V.S. Pal, Advocate for the petitioner.

Mr. G.S. Sandhu, Government Advocate for respondent No. 1.

They are heard on admission.

2. Petitioner Fayyum has filed this writ petition for the following reliefs:

> "(a) To issue a writ, order or direction in the nature of certiorari for quashing the FIR dated 5.9.2005 (Annexure-1) in case crime no. 429 of 2005 under section 420, 34 IPC, P.S. Dharchula, District Pithoragarh, lodged by the respondent 2, so far the petitioner is concern.
>
> (b) To issue writ, order or direction in the nature of mandamus directing the respondents not to give the effect of FIR dated 5.9.2005 (Annexure-1) lodged by the respondent 2 in P.S. Dharchula, District Pithoragarh, so far to the extent aforesaid petitioner is concern.
>
> (c) To issue any other writ, order or direction which this Hon'ble Court may deem fit and proper in the facts and circumstances of the case.

(d) To award the cost of the writ petition in favour of petitioner."

3. The petitioner is seeking quashing of the First Information Report dated 05.09.2005 leading to the registration of the case against the accused persons, including the petitioner, at Crime No. 429 of 2005 at Police Station Dharchula, District Pithoragarh for the alleged commission of the offence punishable under Section 420 read with 34 of the I.P.C.

5. On due consideration of the submissions of the learned counsel for the parties; the contents of the First Information Report lodged against the accused persons; and the material available in the police case diary, we are of the opinion that no case warranting quashing of the First Information Report and the case registered against the petitioner, in view of the dictum of the Apex Court in the case of **T. Vengama Naidu Vs. T. Dora Swamy Naidu & others** reported in **JT 2007(4) SC 240** is made out**.**

6. We are refraining from commenting on the merits of the case lest it may adversely affect the petitioner's case at the trial, which the petitioners are yet to face.

7. The writ petition, therefore, is liable to de dismissed and is hereby dismissed summarily.

(J.C.S. Rawat, J.) **(Raveej Gupta, C.J.)**
08.05.2007 08.05.2007

G